



ERF 765, 89 PIET RETIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF J BREUGEM

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-law) of the following application applicable to Erf 765, Sandbaai (the property):

Departure in terms of Section 16(2)(b) of the Bylaw for the following:

- Relaxation of the western lateral building line from 2m to 0.38m to accommodate an existing storeroom.
- Relaxation of the western lateral building line from 2m to 1.16m and 1.33m to accommodate an existing wendy house.

Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any comments must be in writing in accordance with the provisions of Sections 51 and 52 of the By-Law to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / alida@overstrand.gov.za) on or before **31 May 2024**, quoting your name, address and contact details, interest in the application, and the reasons for comments. Telephonic enquiries can be made to the **Town Planner, Mr. H. Boshoff** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 765, PIET RETIEFSINGEL 89, SANDBAAI, OVERSTRAND MUNISIPALE GEBIED: AANSOEK VIR AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: WRAP PROJECT OFFICE NAMENS J BREUGEM

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) van die volgende aansoek van toepassing op Erf 765, Sandbaai (die eiendom):

Afwyking ingevolge Artikel 16(2)(b) van die Verordening vir die volgende:

- Verslapping van die westelike lateral boulyn vanaf 2m na 0.38m om 'n bestaande stoorkamer te akkommodeer.
- Verslapping van die westelike lateral boulyn vanaf 2m na 1.16m en 1.33m om 'n bestaande wendyuis te akkommodeer.

Bepaling van Administratiewe Boete ingevolge Artikel 16(2)(q) van die Verordening.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik wees in ooreenstemming met Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / alida@overstrand.gov.za) bereik voor of op **31 Mei 2024**, met u naam, adres en kontakbesonderhede, belang in die aansoek, sowel as die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr. H. Boshoff** by 028-313 8900. Die Munisipaliteit mag weier om kommentare wat na die sluitingsdatum ontvang word, te aanvaar. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 765, 89 PIET RETIEF CRESCENT, SANDBAAI, KUMASIPALA WASE-OVERSTRAND: ISICELO SOKUNYENYISWA NOKUGQITYWA KWESOHLWAYO: WRAP PROJECT OFFICE EGAMENI J BREUGEM

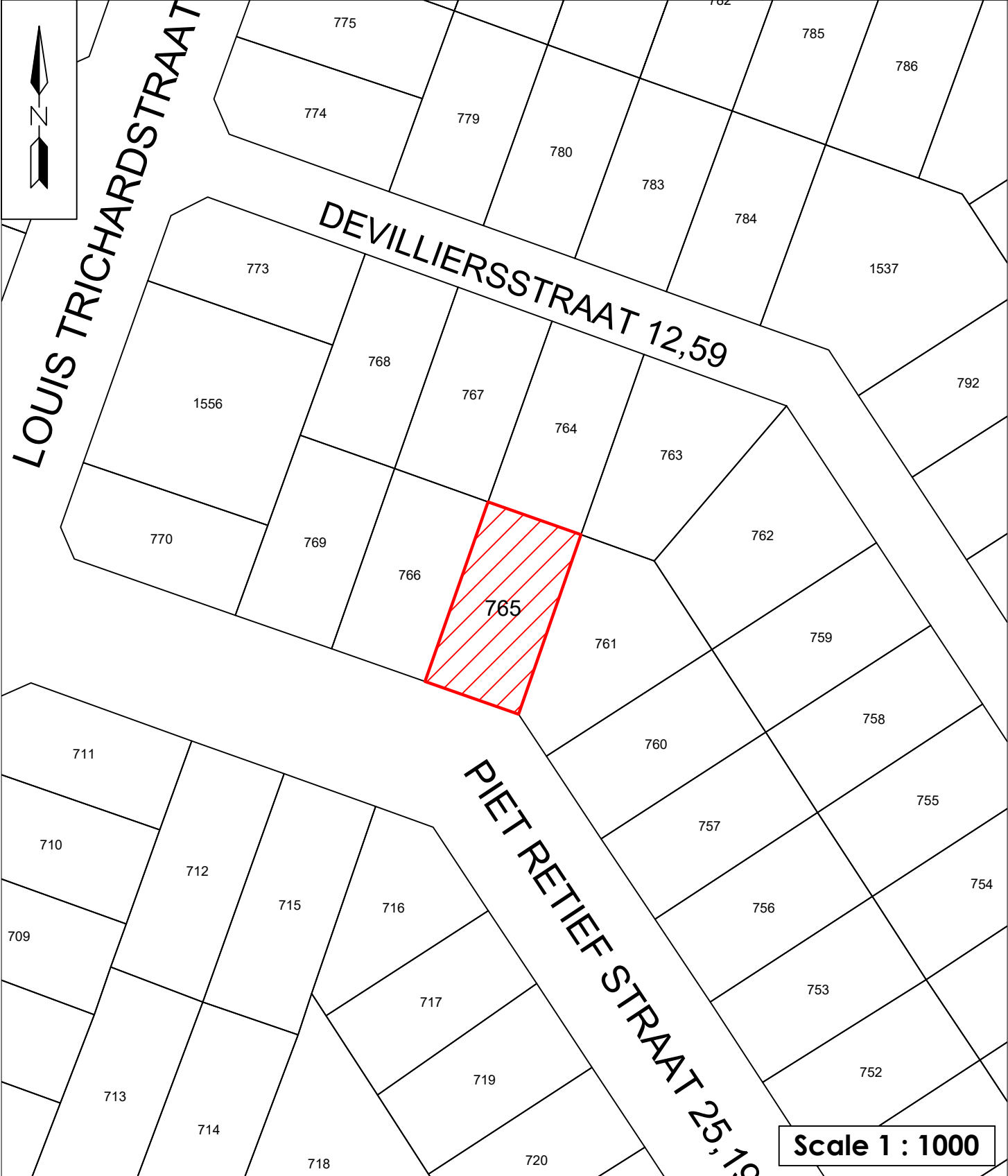
Isaziso siyanikezelwa ngokweCandelo lama-48 loMthetho kaMasipala kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) sokuba isicelo sifunyenwe soku kulandelayo:

- ❖ **Ukutenxa ngokuhambelana** malunga Candelo 16(2)(b) malunga noku kulandelayo:
 - Ukunciphisa komda wesakhiwo osecaleni ongasentshona ukusuka kwisi-2m ukuya ku-0.38m ukuze kuvunyelwe igumbi lokugcina izinto esele likho;
 - Ukunciphisa komda wesakhiwo osecaleni osentshona ukusuka kwisi-2m ukuya kwi-1.16m kunye ne-1.33m ukuze kuhlaliswe i-wendy house esele ikhona.
- ❖ **Ukumiselwa kwesohlwayo solawulo** ngokweCandelo le-16(2)(q) loMthetho kaMasipala.

Inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxesha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwangciso Zedolophu kwanombolo 16 Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho uYilwayo yaye mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye ngaphambi wama- **31 EyeCanzibe, 2024** unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba Umcwangcisi **Wedolophu uMnu. H Boshoff** kule nombolo 028-313 8900. Umasipala angala ukuzamkela izimvo ezifike emva komhla wokulawula. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.

1. Locality Plan
Erf 765 - Sandbaai

Plan prepared by: Thian Jansen
Tel: 028 313 1411
Email: admin@wrapgroup.co.za
Unit B, Standard House,
Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Scale 1 : 1000



1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
MSDF	Overstrand Spatial Development Framework, 2020
SR1	Residential Zone 1: Single Residential

2. PROPERTY DETAILS

Consultant	WRAP Project Office
Erf Number	Erf 765 Sandbaai
Extent	696m ²
Zoning	Residential Zone 1: Single Residential

3. BACKGROUND AND INTENT

The subject property, Erf 765 Sandbaai, is located in Piet Retief Crescent, Sandbaai, refer to **Plan 1 - Locality Plan**. The property owner appointed WRAP Project Office to submit a land use application on his behalf, refer to **Annexure A - Power of Attorney**.

The property owner bought the property with the addition of the storage room and Wendy house unaware of the contravention, refer to **Annexure D – Approved Building Plans**. The property owner now wants to remedy this contravention to align with OM legislation. Therefore, applying for a permanent departure on the western boundary of the property from 2m to 0,38m & 1,16m to allow the existing storage room and the Wendy house respectively, both utilized for storage purposes, refer to **Annexure C – Architect Building Plans**.

Approval of the following applications are required:

- Permanent Departure from the side building line;
- Determination of an administrative penalty.

4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT

WRAP compiled this report to ensure that the property owner's requirements are met.

The following is proposed:

4.1 Permanent Departure from the 2m western side building line to 0,38m to allow the existing storage room in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and



4.2 Permanent Departure from the 2m western side building line to 1,16m to allow the existing wendy house in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The property owner, as mentioned in section 3, is currently in the process of rectifying the contravention that was done by the previous owners by submitting this application. With the transfer of the property to the new owner, it was established that the existing dwelling was not compliant with the OMLUS and did not have approved building plans for all the structures. As a result, the contravention should be rectified that the new owner may have approved building plans. Before the plans may be approved, a land use application is required to obtain approval for the encroachment into the existing 2m building line. The new property owner uses the storage room and Wendy house (encroaching into the building line) for storage purposes.

The wendy house is used for the storing of miscellaneous objects such as gardening equipment, bicycles etc. In addition, the owner is a building contractor and often needs the additional storage space for his material and or tool which types of implements are not proposed to be stored within one's house.

The storage space within the house is used for extra space which is never sufficient when you have children and a family. The room is not habitable and is not used currently for human habitation as the property owner has a need for the additional storage space.

Having additional storage space on your property offers several practical advantages:

- **Organization and decluttering:** Additional storage space allows for better organisation of belongings, helping to declutter living spaces. This makes it easier to find things when needed and creates a more visually appealing environment.
- **Increased Functionality:** It enables you to utilize your living areas more effectively, as the property has a small extent, any space that can be utilised is being sought. By storing items properly, your free up space for other purposes, such as setting up a home office, exercise area, or a recreational space.
- **Preservation and protection:** Proper storage helps protect items from theft and damaging weather. This is especially crucial for valuable or sentimental items.
- **Seasonal storage:** It's convenient for storing seasonal items like holiday decorations, sports equipment, gardening tools, or winter/summer clothing, keeping them out of the way when not in use.
- **Home maintenance tools and equipment:** Space for tools and equipment needed for home maintenance tasks ensures easy access and encourages regular upkeep of the property.
- **Future needs and flexibility:** As lifestyles evolve, additional storage space allows for accommodating future needs without major renovations or changes.
- **Resale value:** Properties with ample storage space often attract more interest from potential buyers, increasing the resale value of the property in the future.



- Personal preferences: Some individuals simply prefer a more organized and clutter-free living space, making additional storage a priority to maintain a tidy environment.

In addition to the above, the surrounding properties have become accustomed to the position of the dwelling that was built prior to the property owner, owning the property. The current property owner has not received any complaint from any neighbours, and it is not predicted that these structures have a negative effect on the neighbouring properties.

4.3 Determination of an administrative penalty in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The existing storage room and wendy house that was built over the building line was done by the previous owner without consent or approval. In order for the present (new) owner to have approved building plans for his new property, approval of a land use application is required. To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 it is of importance to include an application for the determination of an administrative penalty. It is however requested that the administrative penalty be waived as this application serves as method to rectify the contraventions that occurred by the previous owner, and it is not predicted to have a negative impact on the surrounding properties as their owners have become accustomed to the placement and position of the structure.

Section 90(3) of the By-law requires the following information:

The nature, duration, gravity and extent of the contravention

Section 4.1 indicates the nature and gravity of the additions that were constructed without prior approval. The total extent of the building lines encroachments is:

Existing storage room	±8,83m ²
Existing wendy house	±2,26m ²

The conduct of the person (allegedly) involved in the contravention

The previous owner was responsible for ensuring that there were no contraventions in terms of the by-law; however, it is important to note that no malicious intent was found in their actions and the present (new) owner aims to rectify the contravention.

A report by a quantity surveyor in matters of unauthorised building/construction

Due to the small-scale nature of the encroachment no quantity surveyor was involved.

Whether the unlawful conduct was stopped

The structures have already been constructed.

Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

To the knowledge of this office, the property owner has not previously contravened the By-Law.



5. APPLICATION

Considering the above, application is made for the following:

- 5.1 Permanent Departure** from the 2m western side building line to 0,38m to allow the existing storage room in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 5.2 Permanent Departure** from the 2m western side building line to 1,16m to allow the existing wendy house in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 5.3 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

6. LAND USE ENVIRONMENT

The subject property is located in Sandbaai, an established residential area in the Overstrand. The property is surrounded by other Residential Zone 1: Single Residential properties and Public Streets. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

7. TITLE DEED

Title deed T25724/2023 (refer **Annexure B**) was perused and there are no restrictive conditions that prohibits the approval of the proposal being made.

8. ZONING

The following zoning parameters were assessed in conjunction with the SR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:



RESIDENTIAL ZONE 1: SINGLE RESIDENTIAL			
	Parameters	Proposal	Comply/ deviate
Primary use	Crèche, Dwelling House , Guest Rooms, Home Occupation, Second Dwelling Unit and Self-Catering.	Dwelling House	Comply
Consent use	Day Care Centre, Green House, Guest House, House Shop, Institution, Place of Instruction, Place of Worship, Residential Building, and Intensive Horticulture.	N/A	N/A
Development parameters			
Coverage	The maximum coverage for all buildings on the land unit is determined in accordance with the net erf area: 400m ² and greater = 50%	Existing Structures = 249,55m ² Proposed Coverage = 35,83%	Comply
Building lines	(i) The street building line is determined in accordance with the net erf area: <ul style="list-style-type: none"> • 400 m² and greater = 4m (ii) The side and rear building lines are determined in accordance with the net erf area: <ul style="list-style-type: none"> • Greater than 400 m² = 2m 	<ul style="list-style-type: none"> • The street building lines are being adhered to. • Permanent Departure from the 2m side (western) building line to 0,38m & 1,16m to allow the existing storage room and the wendy house, both of which are utilized for storage purposes. 	Deviate
Height	The maximum height of a building, measured from the base level to the top of the structure, is 8,0 m.	The existing dwelling adheres to the 8,0m building line.	Comply
Garages and carports	Garages and carports may be constructed within building lines in accordance with Chapter 16.1.2.	There are two carports located on the property.	Comply



9. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

Electricity, Water, Sewage and Solid Waste

The subject property is connected to the existing networks in the area, which include electricity, water and sewage. The proposal of this application is not anticipated to impact on existing services.

Solid waste is collected every week by the OM.

Access and Egress

Access and egress to the property is gained from Piet Retief Crescent.

10. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

Need and desirability.

The need for the land use application was a result of addressing all the land use requirements and ensuring the property meets the requirements of the property owner. To achieve this, the property owner is required to apply for a permanent departure from the building line.

Socio-economic impact	The permanent departure is not predicted to have a socio-economic impact.
Compatibility with surrounding uses	The proposal to ensure the property complies with the OMLUS, is it not predicted that the proposal is out of line with the surrounding area.
Impact on the external engineering services	Refer Section 9.
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have an impact on safety, health, and wellbeing of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	It is not predicted that the proposal will have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal will not have an impact on traffic, parking or access.



Impact on views, sunlight and character of the area

The subject property is located in a residential setting and the structure is existing, meaning that the adjacent property owners are accustomed to the structure, and it is not predicted to affect any owners. As motivated above, the structure is not being altered.

Economic impact

The proposal is not expected to have a short- or long-term economic impact.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

Environmental impact

The subject property is not located within an environmentally important area.

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The property is not located within the EMOZ.

11.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The property is not located within the HPOZ.

11.3 Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

12. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided by. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

Spatial justice

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to rectify past contraventions is not predicted to influence past spatial injustices.

Spatial sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The proposed departure intends to ensure the subject property is utilised to its maximum capabilities.



Efficiency

This proposal is intended to maximise the usage of the subject property.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

Good administration

The OM has a credible track record of good administration regarding the method of public participation. Public participation forms an integral part of the land use planning process.

The public participation process provides people who may be affected by the proposal with an opportunity to provide comment and to raise issues of concern about the proposal or make possible suggestions that may result in an enhanced outcome of which both parties benefit. Comments will be reviewed and considered after which it will be addressed accordingly.



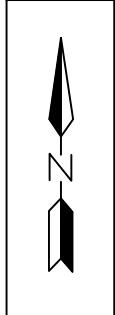
13. EVALUATION

The purpose of submitting this application is to enable the owner to rectify the contravention that had occurred prior to his ownership of the property and to ensure the property has the necessary approvals to be compliant with the OMLUS. This application aims to balance the functional necessity of providing adequate storage space (storage room and wendy house) while ensuring compliance with the required conditions outlined in the OMLUS, which include the length, height, and other specifications of the structure.

14. RECOMMENDATION

Based on the abovementioned motivation, it is recommended that the following be approved:

- 14.1 Permanent Departure** from the 2m western side building line to 0,38m to allow the existing storage room in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020;
- 14.2 Permanent Departure** from the 2m western side building line to 1,16m to allow the existing wendy house in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and
- 14.3 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



4.2 Inset - Site Plan
Erf 765 - Sandbaai

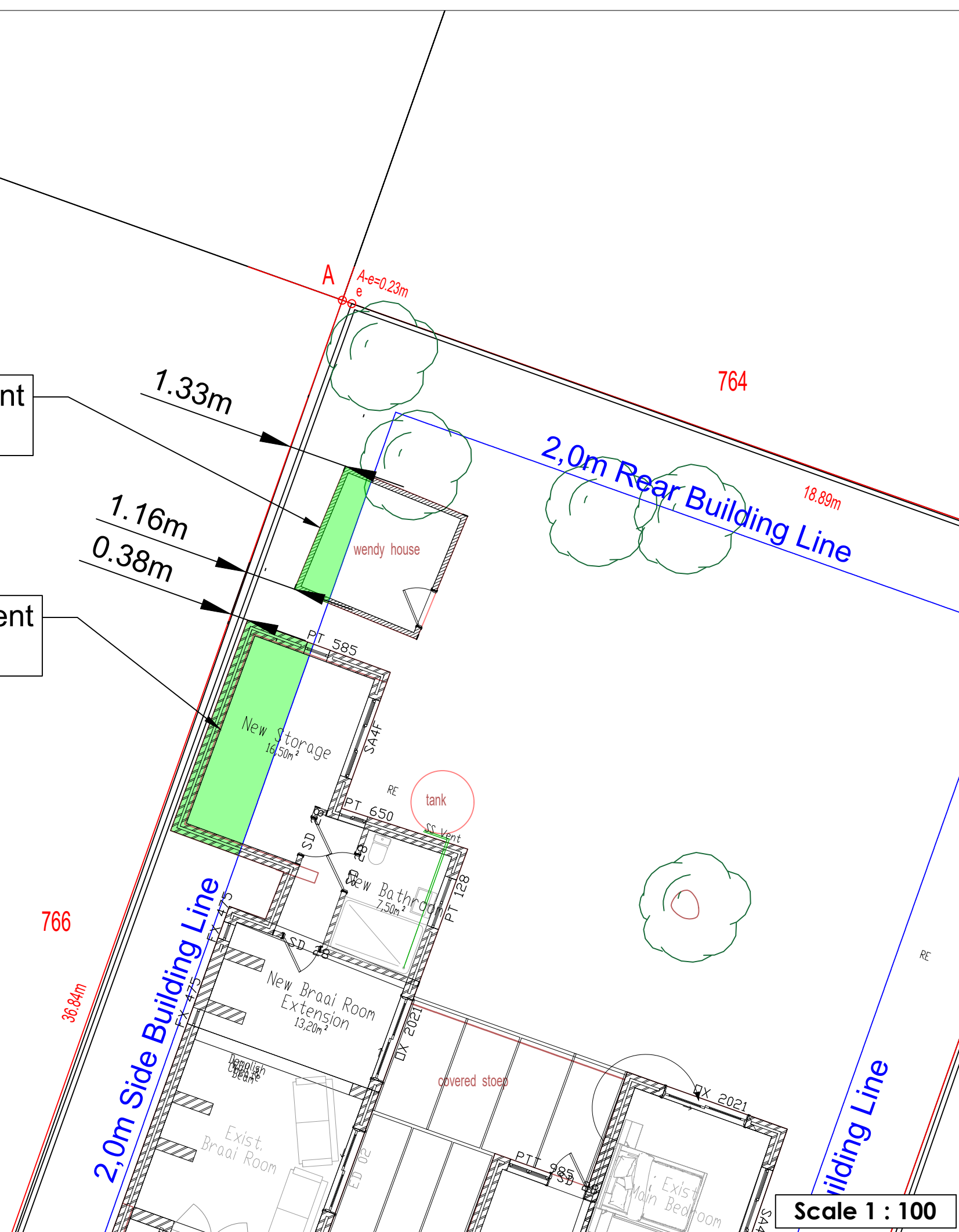
Erf 765 - Sandbaai
Extent = 696m²

Existing Dwelling incl Wendy
= 249,55m²

Coverage =
249,55m² / 35,85%

Wendy House Encroachment
±2,26m²

Dwelling House Encroachment
±8,83m²



Scale 1 : 100

Plan prepared by: Thian Jansen

All distances are approximate
and subject to a survey

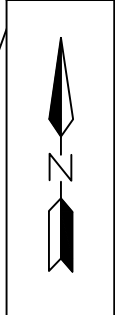
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit B, Standard House, Corner of Royal and Dirkie Uys
Street Hermanus, 7200



Project Office
Town Planning & Project Management

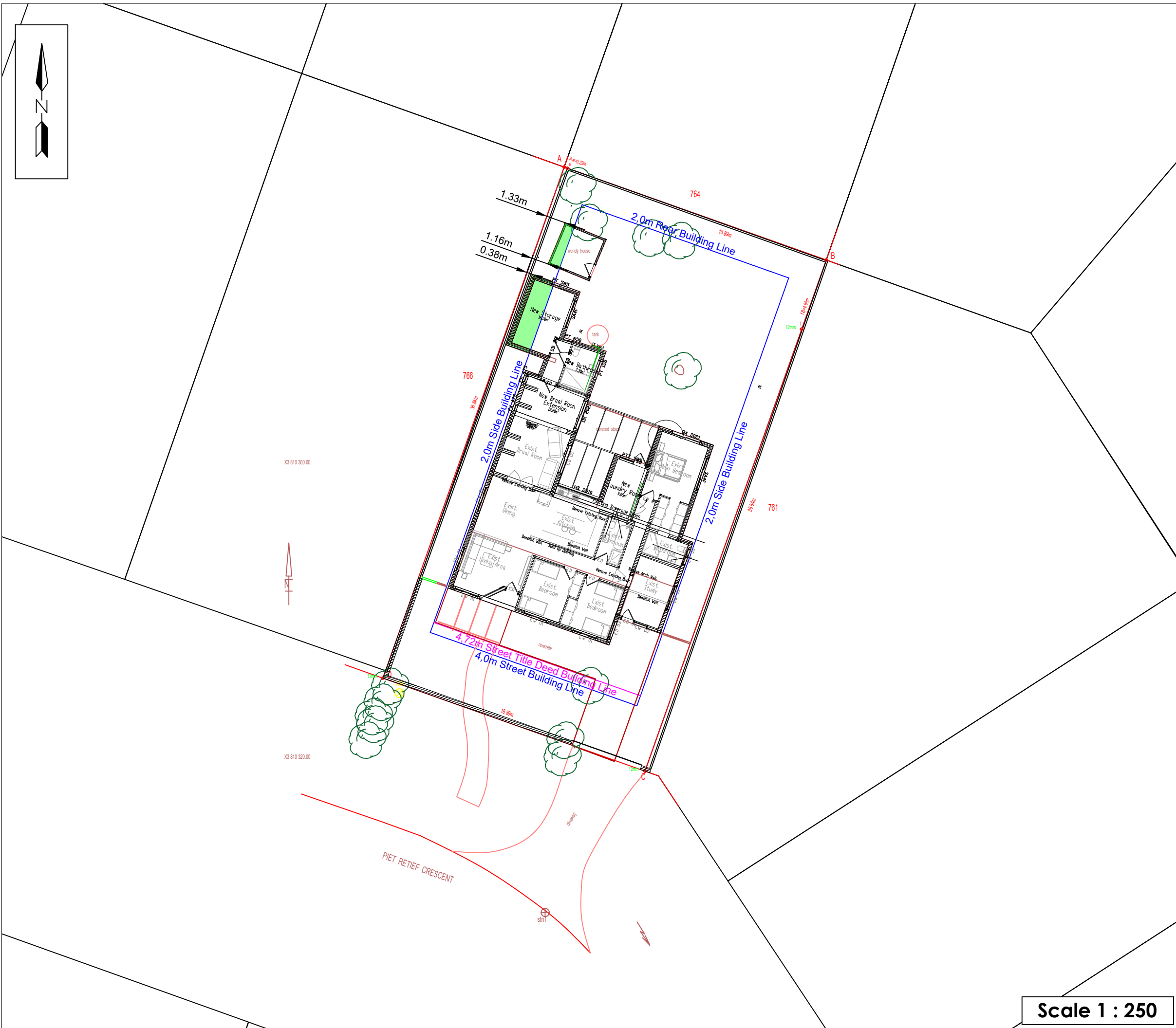


4.1 Site Plan
Erf 765 - Sandbaai

Erf 765 - Sandbaai
Extent = 696m²

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= 249,55m²

Coverage =
249,55m² / 35,85%



X3 810 300.00

X3 810 320.00

PIET RETIEF CRESCENT

Scale 1 : 250

Plan prepared by: Thian Jansen

All distances are approximate
and subject to a survey

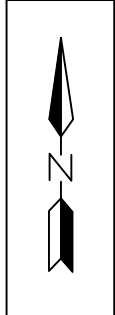
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Project Office
Town Planning & Project Management



4.2 Inset - Site Plan
Erf 765 - Sandbaai

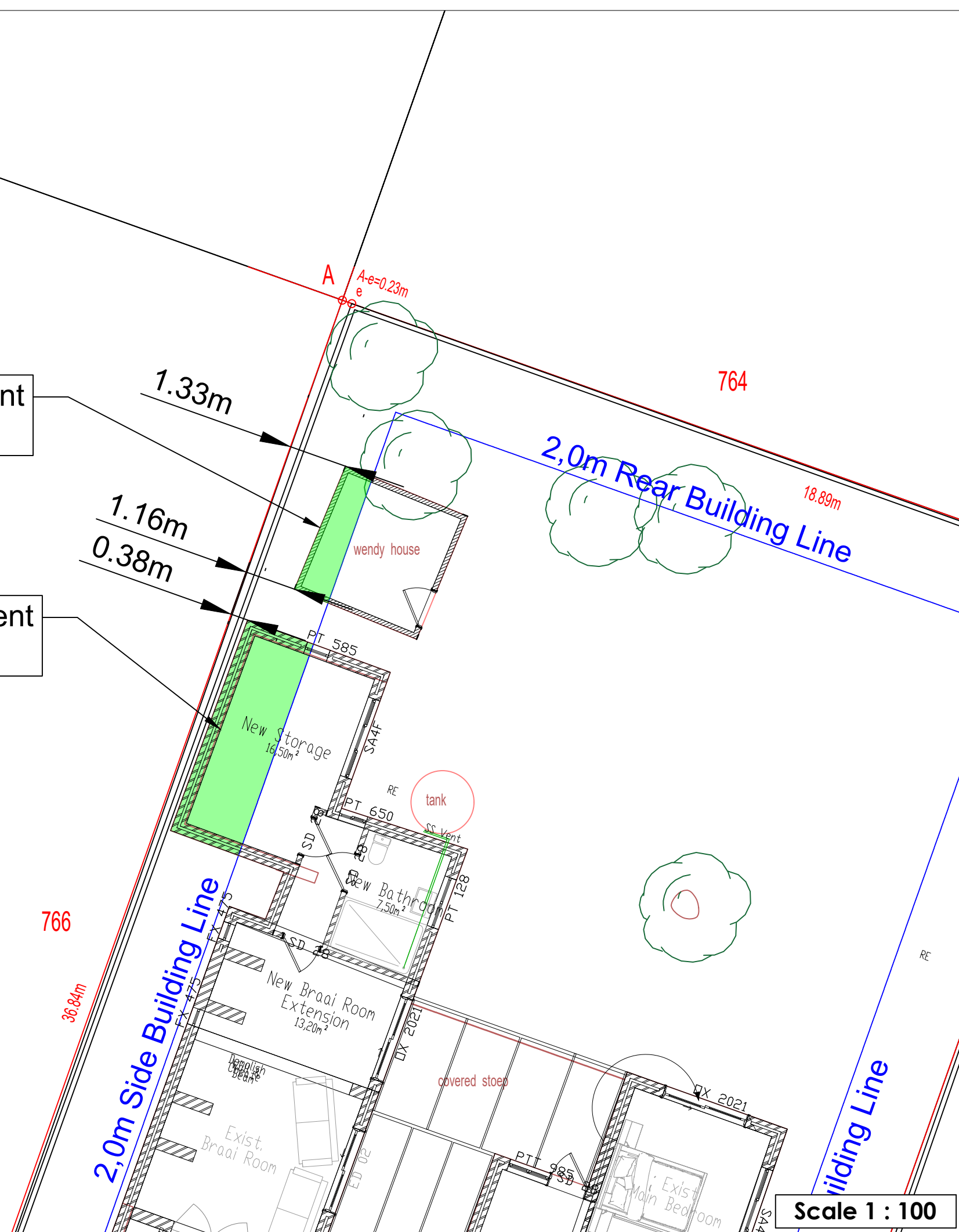
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Scale 1 : 100